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2 MARK D. WALDRON
3 Chapter 11 Trustee
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8 IN THE UNITED STATES BANKRUPTCY COURT
9 FOR THE EASTERN DISTRICT OF WASHINGTON

10 In Re:

11 GIGA WATT INC., a Washington)
12 corporation,)

13 Debtor.)
14)
15)
16)

Case No. 18-03197-FPC11

The Honorable Frederick P. Corbit

**DECLARATION OF MARK D. WALDRON,
CHAPTER 11 TRUSTEE, IN REPLY
TO COMMITTEE'S SUPPLEMENTAL
RESPONSE CONCERNING UST'S
MOTION TO CONVERT**

17 I, MARK D. WALDRON, declare as follows:

18 I submit this Declaration in my official capacity as the duly-appointed Chapter 11
19 Trustee in the above-captioned bankruptcy proceeding and in reply to the Committee's
20 Supplemental Response Concerning UST's Motion to Convert (Docket No. 731).

21 While the Committee wants to lay blame, after having spent the better part of two
22 years working on this failed business, it is likely that, based upon the circumstances of
23 the very business model upon which Giga Watt existed, this case was destined for a
24
25

1 Chapter 7 bankruptcy at some point, and now appears to be that point. The Committee
2 appears to concede that conversion should occur.

3 As to the allegations that I have been uncooperative, that is simply not true. The
4 Court authorized a Rule 2004 exam at a particular date and time and further authorized
5 Mr. Ellison to provide a subpoena. The exam was to take place at 1:30 p.m. on
6 September 17, 2020. I appeared at the exam and truthfully answered questions as I
7 was able to do, only objecting to questions which strayed into privileged information or
8 would violate this Court's prior protective order (Docket No. 673). Participating in the
9 exam were several of the firms the Committee has selected to consider these claims,
10 as well as attorney Ralph Cromwell, who represents the Perkins Coie law firm. Mr.
11 Ellison did not issue or serve a subpoena prior to the examination on September 17,
12 2020.

14 At 3:10 p.m. on Tuesday, September 22, 2020, Mr. Ellison emailed a Subpoena
15 to Produce Documents to Pamela Egan, the court-appointed counsel for the Chapter 11
16 Trustee. A copy of that Subpoena is attached hereto and incorporated herein by
17 reference as Exhibit 1. Mr. Ellison requested all documents within 72 hours and also
18 requested that I ignore both privilege and the protective order.

19 The Court should also be aware that I had previously directed Ms. Egan to supply
20 to Mr. Ellison all documents which could be shared relative to our investigation which
21 were not subject to privilege or protective order. This was done several weeks in
22 advance of his filing the motion for 2004 examination.
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1 Mr. Ellison provided me the names of four potential lawyers to which the
2 Committee wanted to shop this claim. I contacted two of them (Scott Henrie at Williams
3 Kastner and Tom Breen at Schroeder Goldmark). Tom Breen never responded to my
4 email. Scott Henrie and I have had multiple and ongoing conversations. Any firm which
5 might be employed will be employed on a contingent fee basis.

6 To the best of my knowledge, I declare under penalty of perjury that the foregoing
7 is true and correct.
8

9
10 Date:

Sept 25 2020



MARK D. WALDRON, WSBA#9578
Chapter 11 Trustee

UNITED STATES BANKRUPTCY COURT

EXHIBIT 1

____ Eastern ____ District of ____ Washington ____

In re ____ Giga Watt Inc. ____

Debtor

(Complete if issued in an adversary proceeding)

Case No. ____ 18-3197 ____

Chapter ____ 11 ____

Plaintiff

v.

Adv. Proc. No. ____

Defendant**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)**To: ____ Chapter 11 Trustee Mark Waldron ____
(Name of person to whom the subpoena is directed)☐ **XProduction: YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following:

A. All documents, including those subject to the Protective Order (ECF No. 673) previously produced to you by Perkins Coie B. All nonprivileged billing records reflecting you or your counsel's time conducting due diligence in determining the merits of potential Estate claims against Perkins Coie

PLACE Production via e-mail to salishsealegal@outlook.com	DATE AND TIME September 25, 2020 at noon
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☐ **Inspection of Premises: YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
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The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: September 22, 2020

CLERK OF COURT

OR Benjamin A. Ellison

Signature of Clerk or Deputy Clerk_____
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party)

Unsecured Creditors Committee, who issues or requests this subpoena, are:

Benjamin Ellison, 2212 Queen Anne Ave N., Seattle, WA 98109, salishsealegal@outlook.com, 206 257 9547

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (*name of individual and title, if any*): _____
on (*date*) _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (*date*) _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.: